



Billing Code 4510–55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–2014–N171; FXES11120800000F2–112–FF08E00000]

**Incidental Take Permit Application and Draft Environmental Assessment for the
RE Cinco Solar Facility Project Habitat Conservation Plan, Kern County,
California**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from RE Barren Ridge 1 LLC, a subsidiary of Recurrent Energy LLC (applicant), for a 40-year incidental take permit (permit). The Service, in cooperation and coordination with the applicant, has prepared a draft Environmental Assessment (EA) under the National Environmental Policy Act (NEPA) for the applicant's permit application and proposed RE Cinco Solar Facility Habitat Conservation Plan (HCP), as required by the Endangered Species Act of 1973, as amended (Act). If approved, the

permit would authorize incidental take for the federally threatened desert tortoise, associated with construction, operation, maintenance, and decommissioning of a photovoltaic solar facility in the County of Kern.

DATES: To ensure consideration, please send your written comments on or before

[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: *Obtaining Documents:* You may request a copy of the proposed HCP and draft EA by email, telephone, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or comments by any one of the following methods, and specify “Cinco Solar Facility HCP” in your request or comment.

Submitting Comments: You may submit comments or requests for copies or more information by one of the following methods:

- *Email:* fw8cfwocomments@fws.gov. Include “Cinco Solar Facility” in the subject line of the message.

- *Telephone:* Raymond Bransfield, U.S. Fish and Wildlife, 805–644–1766.

- *Fax:* Raymond Bransfield, U.S. Fish and Wildlife Service, 805–644–3958,

Attn: Cinco Solar Facility HCP.

- *U.S. mail:* Raymond Bransfield, Attn: Cinco Solar Facility HCP, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.

- *In-Person Drop-off, Viewing, or Pickup:* Call 805–644–1766 to make an

appointment during regular business hours at the above address.

Hardbound copies of the environmental assessment and habitat conservation plan are available for viewing at the following locations:

1. U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003.
2. Kern County Library, Boron Branch, 26967 20 Mule Team Road, Boron, CA 93516.

FOR FURTHER INFORMATION CONTACT: Raymond Bransfield, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service, at 805–644–1766 (telephone). If you use a telecommunications device for the deaf, please call the Federal Information Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Introduction

We announce the availability of our draft EA for the proposed Cinco Solar Facility HCP, in accordance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*; NEPA), and NEPA implementing regulations in the Code of Federal Regulations (CFR) at 40 CFR 1506.6, as well as the availability of the applicant’s section 10(a)(1)(B) permit application in compliance with section 10(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*). The draft EA considers the environmental effects associated with issuing the applicant’s requested incidental take permit and implementation of the proposed HCP, including impacts to the

threatened desert tortoise (*Gopherus agassizii*). Take of desert tortoise would be incidental to the applicant's activities associated with the construction, operation, maintenance, and decommissioning of a photovoltaic solar facility in Kern County, California.

Background

Section 9 of the Act and implementing Federal regulations in the Code of Federal Regulations (CFR) at 50 CFR 17 prohibit the "take" of wildlife species listed as endangered or threatened. The Act defines the term "take" as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect listed species, or to attempt to engage in such conduct" (16 U.S.C. 1538). "Harm" includes significant habitat modification or degradation that actually kills or injures listed wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). Under limited circumstances we may issue permits to authorize incidental take of listed wildlife species which the Act defines as take that is incidental to, and not the purpose of, the carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species are at 50 CFR 17.32 and 50 CFR 17.22, respectively. In addition to meeting other criteria, activities covered by an incidental take permit must not jeopardize the continued existence in the wild of federally listed wildlife.

Applicant's Proposal

The applicant requests a 40-year incidental take permit under section 10(A)(1)(b) of the Act. If we approve the permit, the applicant anticipates taking desert tortoise as a

result of construction, operation, maintenance, and decommissioning activities on 500 acres of land the species uses for breeding, feeding, and sheltering. The take would be incidental to the applicant's routine activities associated with the development and operation of a photovoltaic solar facility. The site is located in unincorporated Kern County, approximately 6.5 miles (10.46 kilometers (km)) north of the community of California City. With the exception of a portion of State Route 14, which traverses diagonally through the southeast corner of the site, and several transmission line right-of-ways that diagonally traverse the northwest corner of the site, the surrounding area is entirely comprised of vacant land with no outbuildings, residences, or similar structures. Desert tortoise protocol surveys were conducted in 2010 and 2011. The Service has determined the proposed project will result in take of desert tortoise. No other federally listed species are known to occur on the site.

To mitigate take of desert tortoise on the project site, the applicant proposes to keep the portion of the project site east of State Route 14 and west of an existing transmission line undeveloped. The applicant would also avoid development on one area that contains wash vegetation and one that contains a desert tortoise burrow; both of these areas are located at the edge of the proposed solar field. The applicant proposes to permanently conserve approximately 500 acres within the western Mojave Desert to mitigate for the loss of desert tortoise habitat within the proposed project site. The draft HCP includes funding for the implementation of measures to protect desert tortoises during construction, operations, maintenance, and decommissioning of the solar facility, and for enhancement and management of the acquired lands.

The applicant proposes to construct and operate a generation tie-in line from the solar facility to the nearby Barren Ridge Substation. Because this route would cross lands managed by the Bureau of Land Management (BLM), the applicant did not include construction and operation of this proposed generation tie-in line as covered activities under its proposed HCP. The BLM and Service would consult on the effects of the generation tie-in line on the desert tortoise under section 7 of the Act. Although BLM is conducting an analysis under NEPA for the generation tie-in line as part of the applicant's application for a right-of-way to construct and operate the line, the draft EA prepared for the applicant's incidental take permit application also includes an environmental analysis of the generation tie-in line to ensure the Service considers the effects of the applicant's entire proposed project.

National Environmental Policy Act Compliance

We provide this notice under section 10(c) of the Act and Service regulations for implementing NEPA. We have prepared a draft EA for the proposed action and have made it and the applicant's proposed HCP available for public inspection (see **ADDRESSES**). NEPA requires that a range of reasonable alternatives, including the proposed action, be described. The draft EA analyzes three alternatives, described below.

Proposed Action (Preferred Alternative)

Our proposed action is to issue an incidental take permit to the applicant, who would implement the HCP, described above. If we approve the permit, incidental take of desert tortoise would be authorized for the applicant's routine activities associated with

the construction, operation, maintenance, and decommissioning of a solar facility in Kern County.

No Action Alternative

The draft EA includes a No Action alternative that would not result in take of desert tortoise. Under this alternative, unless the applicant can determine how to build the project in a way that avoids take of the desert tortoise, the proposed solar facility would not be constructed and the private lands would remain in their current state and be available for other uses in accordance with Kern County's general plan, which classifies them as "resource management" lands zoned as "agriculture-floodplain combining." Uses authorized for this designation and zoning include crop production, animal production, livestock grazing, utility and communication facilities, resource extraction, and energy development. If this project is not constructed, Kern County could permit other uses in the future with issuance of a conditional use permit, including solar power generation, single-family residential development, or commercial and institutional uses.

Solar Facility and Gen-Tie Line Alternative

Under this alternative, the solar facility would be constructed in an identical manner as that described above under the Proposed Action; however, the applicant would construct the generation tie-in line entirely on non-Federal land. Therefore, the approved incidental take permit would also provide coverage for the construction and operation of a generation tie-in line to be constructed solely on non-Federal lands. The environmental

impacts from the solar plant construction, operations, maintenance, and decommissioning would be identical to those under the Proposed Action; however, the environmental impacts and cost of this alternative would be greater because of the increased length of the electrical line (1.9 miles (3.06 km) vs. 3.6 miles (5.79 km)).

Public Review

The Service invites the public to comment on the permit application, including the proposed HCP and draft EA, during the public comment period (see **DATES**). If you wish to comment, you may submit your comments via one of the means listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA. We will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of NEPA regulations and section 10(a) of the Act. If we determine that those

requirements are met, we will issue a permit to the applicant for the incidental take of desert tortoise. We will make our final permit decision no sooner than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Dated: October 6, 2014.

Alexandra Pitts,
Deputy Regional Director,
Pacific Southwest Region,
Sacramento, California.

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